

## **Subchapter A : General Provisions**

### **§299.1. Definitions.**

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

**Dam** - Any barrier, including one for flood detention, designed to impound liquid volumes and which has a height of dam greater than six feet. This does not include highway, railroad or other roadway embankments, including low water crossing that may temporarily detain floodwater, levees designed to prevent inundation by floodwater, closed dikes designed to temporarily impound liquids in the event of emergencies, or off-channel impoundments authorized by the commission in accordance with Texas Water Code, Chapter 26, or the Texas Solid Waste Disposal Act, Texas Civil Statutes Article 4477-7.

**Effective crest of the dam** - The elevation of the lowest point on the crest of the dam excluding spillways.

**Existing Dam** -

(A) Any dam constructed in accordance with necessary authorizations of the commission;

(B) Any existing dam exempt under Texas Water Code §11.142;

**Height of dam** - The vertical distance from the effective crest of the dam to the lowest elevation on the centerline or downstream toe of the dam including the natural stream channel.

**Maximum storage capacity** - The volume of the impoundment created by the dam at the effective crest of the dam, usually expressed in acre-feet.

**Normal storage capacity** - The volume of the impoundment created by the dam, at the lowest uncontrolled spillway crest, usually expressed in acre-feet.

**Probable maximum flood (PMF)** - The flood magnitude that may be expected from the most critical combination of meteorologic and hydrologic conditions that are reasonably possible for a given watershed.

**Probable maximum precipitation (PMP)** - Theoretically the greatest depth of precipitation for a given duration that is physically possible over a given size storm area at a particular geographical location at a certain time of the year.

**Proposed Dam** - Any dam, constructed or to be constructed, which is not included in the definition of Existing Dam.

**Spillway design flood (SDF)** - The flood criteria that needs to be considered in the design of a proposed project.

**Spillway evaluation flood (SEF)** - The flood criteria that needs to be considered in the hydrologic evaluation of an existing structure.

### **§299.2. General.**

(a) When the executive director finds that a dam or reservoir poses a level of danger to the public which is unacceptable when evaluated in accordance with commission rules, he may either refer the matter directly to the attorney general for injunctive relief or he may seek an order from the

commission to direct the owner to take appropriate action to remove the danger to life and property. An owner who willfully fails or refuses to take appropriate action is liable for a penalty of not more than \$1,000 a day for each day the violation continues.

(b) In determining whether an existing or proposed dam and reservoir constitutes an unacceptable danger to life or property, the commission shall evaluate both the hydrologic and, if possible, the structural adequacy of the dam. The commission may take into consideration conditions, including but not limited to, the possibility that the dam might be endangered by overtopping, seepage, piping, settlement, erosion, cracking, earth movement, uplift, overturning, or failure of bulkheads, flashboards, gates, spillways and conduits.

(c) Dams and associated facilities must be adequately maintained throughout their lives, including as necessary, the operation and maintenance of surveillance and monitoring devices to detect changes in the dam and/or its foundation and appurtenant facilities. If abandoned at any time, a dam must be removed or breached in a manner to eliminate any hazard to life and property downstream.

(d) Dam and spillway adequacy shall be evaluated utilizing standard engineering procedures and techniques including, but not limited to, those employed and recommended by the Corps of Engineers, Soil Conservation Service, Bureau of Reclamation, and the American Society of Civil Engineers.

### **§299.3. Duties, Obligations and Liabilities of Dam Owners.**

Nothing in these rules or orders made by the commission shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations or liabilities incident to ownership or operation.

### **§299.4. Registered Engineer.**

Preparation of all plans and specifications, and the construction, enlargement, alteration, repair or removal of dams subject to commission review shall be under the supervision of an engineer registered in this state, unless a waiver of this requirement is authorized pursuant to §299.5 of this title (relating to Exception).

### **§299.5. Exception.**

Written approval of the executive director is required for exception from any or all of the requirements of §299.4 of this title (relating to Registered Engineer), §299.22 of this title (relating to Approval of Plans and Specifications), §299.23 of this title (relating to Content of Construction Plans and Specifications), §299.24 of this title (relating to Maintenance of Records), §299.25 of this title (relating to Construction Progress Report), §299.26 of this title (relating to Construction Inspection), §299.27 of this title (relating to Plan and/or Specification Changes and Amendments), §299.28 of this title (relating to Noncompliance with Approved Plans and Specifications), §299.29 of this title (relating to Deliberate Impoundment), and §299.31 of this title (relating to As-built Drawings and Permanent Reference Mark). The executive director may grant exception if he determines that the physical conditions involved, when evaluated using standard engineering procedures and techniques, render the

requirements unnecessary. Written approval will specify the extent of the exception granted and the executive director's reasons for granting it. This rule does not limit the executive director's authority under §299.27 of this title (relating to Plan and/or Specification Changes and Amendments) to require amendments, modifications or changes to ensure the safety of a structure.